



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 31, 1994

Ms. Karen Hendershot Bailey
Assistant City Attorney
Legal Department
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR94-050

Dear Ms. Bailey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552.¹ We assigned your request ID# 22885.

The City of Victoria (the "city") has received a request for certain offense reports. Specifically, the requestor seeks all police reports concerning the requestor filed on or after May 1, 1993. You have submitted four offense reports to us for review. You claim that sections 552.101 and 552.108 of the act except the requested information from required public disclosure.

You advise us that two of the offense reports submitted to us for review involve the arrests of a juvenile. You claim that section 552.101 excepts these offense reports in their entirety from required public disclosure. Section 552.101 of the act excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 of the Government Code incorporates, as a statutory source of confidentiality, section 51.14(d) of the Family Code. Section 51.14(d), as amended by Acts 1993, 73d Leg., ch. 461, § 3, at 1852, 1854, provides in pertinent part:

Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

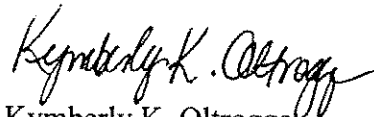
criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public.

In Open Records Decision No. 181 (1977) at 2 this office held that section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. *See also* Open Records Decision No. 394 (1983) at 4-5 (applying section 51.14(d) to "police blotter" and related information).² You do not indicate that the offense reports at issue here relate to charges for which the city transferred the juvenile under section 54.02 of the Family Code to a criminal court for prosecution, nor that article 15.27 of the Code of Criminal Procedure applies. Moreover, we do not understand any of the exceptions to section 51.14(d) to apply here. *See* Family Code §§ 51.14(d)(1), (2), (3). Accordingly, we conclude that the city must withhold the two offense reports involving the arrests of a juvenile in their entirety under section 552.101 of the act.

You claim that section 552.108 of the act excepts from required public disclosure the remaining two offense reports, except for front page information the court made public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Traditionally, when applying section 552.108, our office has distinguished between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, this section excepts from disclosure all information except that generally found on the first page of the offense report. *See generally* Open Records Decision No. 127 (1976) (citing *Houston Chronicle, supra*). You advise us that the requested offense reports relate to pending criminal investigations. Accordingly, we conclude that, with the exception of information the *Houston Chronicle* court made public, you may withhold the remaining two offense reports in their entirety under section 552.108 of the act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kymberly K. Oltrogge
Assistant Attorney General
Open Government Section

²*See also* Fam. Code § 51.14(c), as amended by Acts 1993, 73d Leg., ch. 252, § 1, at 557, which provides, among other things, that "law-enforcement files and records concerning a child shall be kept separate from files and records of arrests of adults."

KKO/GCK/rho

Enclosure: Submitted documents

Ref.: ID# 22885

cc: Mr. Patrick D. Raymond
605 Simpson Road
Victoria, Texas 77904
(w/o enclosures)